



DIVISION OF  
ENFORCEMENT

UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549

June 3, 2024

**VIA SECURED EMAIL**

Office of Senator Charles E. Grassley  
135 Hart Senate Office Building  
Washington, D.C. 20510

Dear Senator Grassley:

Thank you for your letter to Chair Gensler concerning the U.S. Securities and Exchange Commission's (SEC) Whistleblower Program and your continued support of the Program. As you know, the Program was created to incentivize individuals to report accurate and timely information about possible violations of the federal securities laws.<sup>1</sup> I wholeheartedly agree with you that the Program has achieved tremendous success and helped boost accountability. Since the Program's inception, whistleblowers have proven critically important to the SEC and its ability to enforce compliance with the federal securities laws. As Chief of the Office of the Whistleblower, I welcome the opportunity to share more information about the Program and my commitment to its continued success.

Fiscal Year (FY) 2023 was a record-breaking year for the Program, with annual awards totaling nearly \$600 million – the highest annual total in the Program's history – and more than \$1.9 billion in awards to 397 individual whistleblowers since the beginning of the Program.<sup>2</sup> The Program also experienced an unprecedented level of public participation in FY 2023, with more than 18,000 whistleblower tips – nearly 50% more than the previous record set in FY 2022 – and a record number of applications for awards.<sup>3</sup>

The SEC's commitment to the Program's continued success includes enforcing rules against actions to impede whistleblowers from reporting wrongdoing and enforcing anti-retaliation protections for whistleblowers. In FY 2023, the Commission brought five actions alleging violations of Rule 21F-17, which prohibits persons from taking any action to impede communication with the SEC about possible securities law violations,

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<sup>1</sup> SEC Fiscal Year 2023 Agency Financial Report (Nov. 9, 2023) ("FY 2023 Agency Financial Report"), available at <https://www.sec.gov/files/sec-2023-agency-financial-report.pdf>. The SEC implemented the Whistleblower Program in 2011 when it adopted Rules pursuant to Section 21F of the Exchange Act of 1934 ("Exchange Act"), a provision that was added to the Exchange Act by Section 922 of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010. *See* 17 C.F.R. §§ 240.21F-1 *et seq.*

<sup>2</sup> SEC Office of the Whistleblower Annual Report to Congress for Fiscal Year 2023 ("FY 2023 Annual Report"), available at <https://www.sec.gov/files/fy23-annual-report.pdf>.

<sup>3</sup> FY 2023 Annual Report.

including an enforcement action that resulted in a \$10 million civil penalty – the largest ever for a stand-alone action under this rule.<sup>4</sup>

### **Whistleblower Program Stakeholders**

I credit the Program’s success to the diligent efforts of multiple stakeholders who play key roles at various stages of the Program’s life cycle, from ensuring that whistleblower tips are triaged in a timely manner, to leveraging whistleblower information and assistance in investigations, assessing whistleblower award claims, and ultimately awarding funds to eligible whistleblowers.

#### ***Office of the Whistleblower***

The Office of the Whistleblower (OWB), an office located within the Division of Enforcement, administers the SEC’s Whistleblower Program.<sup>5</sup> OWB’s mission is to protect investors by administering an efficient, high-quality whistleblower program that is responsive to whistleblower needs and helps the SEC identify and stop securities law violations.<sup>6</sup>

Initially comprising five attorneys and one paralegal, each of whom served in one-year details from various SEC Divisions and Offices,<sup>7</sup> OWB has grown over time to include a management team, full-time attorneys and other staff who are dedicated to the work of OWB, and additional staff who serve in various capacities to support OWB’s work. In FY 2017, OWB was led by a Chief and Deputy Chief and staffed by 11 attorneys, four paralegals, and an administrative assistant.<sup>8</sup> By FY 2021, OWB was staffed by two supervisors (including its Acting Chief), 13 full-time attorneys, three attorneys serving in temporary details, and several support staff, including an accountant, paralegals, analysts, law clerks, and an administrative assistant.<sup>9</sup> As of April 30, 2024, OWB was overseen by a Chief, who is a senior officer at the SEC, managed by three front-line supervisors, and staffed by several full-time staff dedicated to the work of OWB, including 16 attorneys, an accountant, a paralegal, an analyst, and a program specialist.

Much of OWB’s work relates to assessing claims for whistleblower awards,<sup>10</sup> as described in further detail below. This work is critical to the Program’s ability to

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<sup>4</sup> FY 2023 Annual Report.

<sup>5</sup> SEC Whistleblower Program 2021 Annual Report to Congress (“FY 2021 Annual Report”), available at <https://www.sec.gov/files/owb-2021-annual-report.pdf>.

<sup>6</sup> FY 2021 Annual Report.

<sup>7</sup> SEC Annual Report on the Dodd-Frank Whistleblower Program, Fiscal Year 2011 (“FY 2011 Annual Report”), available at <https://www.sec.gov/files/whistleblower-annual-report-2011.pdf>.

<sup>8</sup> 2017 Annual Report to Congress, SEC Whistleblower Program (“FY 2017 Annual Report”), available at <https://www.sec.gov/files/sec-2017-annual-report-whistleblower-program.pdf>.

<sup>9</sup> FY 2021 Annual Report.

<sup>10</sup> FY 2021 Annual Report.

incentivize individuals to report possible violations of the federal securities laws to the SEC and is a key reason for the Program's success.

OWB attorneys also play a key role in another aspect critical to the success of the Program: protecting the ability of individuals to report wrongdoing to the SEC without fear of interference or reprisal. To this end, OWB attorneys consult with investigative staff concerning whistleblower complaints alleging actions that impede an individual's ability to report wrongdoing to the SEC and retaliation. As of April 30, 2023, the SEC had filed 23 enforcement actions alleging actions that impede reporting and five anti-retaliation enforcement actions.<sup>11</sup>

Additionally, OWB staff operate a hotline to communicate with whistleblowers and their counsel and typically return all calls within three business days.<sup>12</sup> Many of these calls relate to how the caller should submit a tip to be eligible for an award, how the SEC will maintain the confidentiality of a whistleblower's identity, requests for information on the investigative process or tracking an individual's complaint status, and whether the SEC is the appropriate agency to handle the caller's tip.<sup>13</sup> In FY 2023, OWB staff returned more than 3,500 calls from the public, an increase of approximately 1,000 calls from FY 2022.<sup>14</sup> OWB also participates in public engagements, legal panels, and forums with other federal agencies to promote and educate the public about the Program and advance its mission.<sup>15</sup>

### ***Office of Market Intelligence***

The Office of Market Intelligence (OMI), an office located within the Division of Enforcement, is responsible for triaging all tips, complaints, and referrals (TCRs), including whistleblower tips. This review is conducted by professionals, including attorneys, accountants, market surveillance specialists, and support staff. As of April 30, 2024, OMI was overseen by a Chief, managed by four front-line supervisors including a Deputy Chief, and staffed by several full-time staff members, including 22 attorneys, three accountants, three market surveillance specialists, six IT specialists, two analysts, and an administrative assistant. Also as of April 30, 2024, two attorneys were assigned to OMI on temporary details to support the work of the Office. In FY 2023, OMI processed over 40,000 TCRs, a 13% increase over FY 2022.<sup>16</sup>

### ***SEC Divisions of Enforcement and Examinations***

TCRs may result in the opening of an investigation by the Division of Enforcement or an examination by the Division of Examinations that later leads to an

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<sup>11</sup> FY 2023 Annual Report; *see also* <https://www.sec.gov/news/press-release/2024-35> and <https://www.sec.gov/news/press-release/2024-7>.

<sup>12</sup> FY 2023 Annual Report

<sup>13</sup> FY 2021 Annual Report.

<sup>14</sup> FY 2023 Annual Report.

<sup>15</sup> FY 2021 Annual Report

<sup>16</sup> *See* <https://www.sec.gov/news/press-release/2023-234>.

enforcement action. Staff from these Divisions, including attorneys, accountants, examiners, and others, communicate with whistleblowers during investigations and examinations as appropriate; seek consultations with OWB as necessary; and assist OWB in building a comprehensive factual record of a whistleblower's assistance, if any, during OWB's assessment of an award claim.

Division of Enforcement staff also consult with OWB attorneys concerning whistleblower complaints alleging actions that impede reporting and retaliation and throughout investigations into such alleged misconduct.

As discussed in greater detail below, Claims Review Staff (CRS), comprised of one or more staff members designated by the Director of the Division,<sup>17</sup> are responsible for evaluating OWB award recommendations, including whether a claimant meets the criteria for receiving an award and, if so, the recommended amount of the award.

### ***Office of Chief Counsel***

The Office of Chief Counsel (OCC) within the Division of Enforcement serves as the chief legal officer for the Division. OCC attorneys provide advice and guidance to the Director and Division staff on legal and policy questions related to investigations and enforcement actions.

OCC attorneys also review enforcement recommendations, including OWB recommendations for adjudication of whistleblower award claims.<sup>18</sup>

### ***SEC Office of the General Counsel***

The SEC's Office of the General Counsel (OGC) serves as the Commission's chief legal officer and provides advice and counsel to the Commissioners, including about recommendations made by SEC staff. OGC also advises staff throughout the SEC's Divisions and Offices on their recommendations to the Commission.<sup>19</sup>

OGC staff are organized into various groups. One such group, the Enforcement and Whistleblower Review Group, is specifically tasked with advising on enforcement actions and whistleblower claims.<sup>20</sup> OGC attorneys in this group provide advice and guidance to Commissioners and Division of Enforcement staff, including OWB staff, and review recommendations for Commission action. OGC attorneys in this group also review recommendations from OWB for adjudication of award claims and provide advice on rules concerning the SEC's Whistleblower Program.<sup>21</sup>

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<sup>17</sup> See 17 C.F.R. § 240.21F-10(d).

<sup>18</sup> FY 2021 Annual Report.

<sup>19</sup> See <https://www.sec.gov/ogc>.

<sup>20</sup> See <https://www.sec.gov/ogc/enforcement-whistleblower-review>.

<sup>21</sup> FY 2021 Annual Report.

### ***Commission***

The Commission considers OWB award recommendations and makes final determinations for all whistleblower awards, and issues final orders.<sup>22</sup>

### ***Office of Financial Management***

The SEC's Office of Financial Management (OFM) is responsible for issuing whistleblower award payments pursuant to final orders of the Commission from the SEC's Investor Protection Fund.

### **Assessment of Whistleblower Award Claims**

As noted above, much of OWB's work relates to assessing claims for whistleblower awards. OWB posts a Notice of Covered Action on its webpage, [www.sec.gov/whistleblower](http://www.sec.gov/whistleblower), for each SEC action in which a final judgment or order, alone or together with prior judgments or orders in the same action, results in monetary sanctions of more than \$1 million.<sup>23</sup> Once a Notice of Covered Action is posted, individuals have 90 calendar days to apply for an award.<sup>24</sup> While it is ultimately a whistleblower's responsibility to submit a timely application for an award, OWB staff augment the Notice of Covered Action postings by proactively contacting staff who worked on an enforcement action to determine if any individuals may qualify for a whistleblower award.<sup>25</sup>

For each whistleblower award claim submitted in response to a Notice of Covered Action, OWB attorneys assess each application and eligibility of the claimant.<sup>26</sup> Other SEC staff assist in this process. For instance, OWB attorneys work closely with enforcement staff responsible for the relevant enforcement action, and/or other SEC staff who may have interacted with a claimant or otherwise have relevant knowledge about an award claim, to understand the claimant's contribution or involvement in a matter.<sup>27</sup> OWB staff seek declarations from the relevant SEC staff in order to build a comprehensive factual record in support of the ultimate recommendation.<sup>28</sup> OWB may also seek additional information from the claimant and their counsel and from other agencies relevant to assessment of a claim, as appropriate.<sup>29</sup>

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<sup>22</sup> See 17 C.F.R. § 240.21F-10(h).

<sup>23</sup> Subject to eligibility, the SEC will pay awards to whistleblowers who voluntarily provide the SEC with original information that leads to a successful enforcement action in which the SEC obtains monetary sanctions totaling more than \$1 million, including amounts collected in certain related actions. 17 C.F.R. § 240.21F-3.

<sup>24</sup> 17 C.F.R. § 240.21F-10.

<sup>25</sup> FY 2021 Annual Report.

<sup>26</sup> FY 2021 Annual Report.

<sup>27</sup> FY 2021 Annual Report.

<sup>28</sup> SEC 2014 Annual Report to Congress on the Dodd-Frank Whistleblower Program ("FY 2014 Annual Report"), available at <https://www.sec.gov/files/owb-annual-report-2014.pdf>.

<sup>29</sup> FY 2021 Annual Report.

Using the information and materials provided by the claimant in support of the application, as well as other relevant materials, OWB attorneys prepare a recommendation to the CRS as to whether a claimant meets the criteria for receiving an award and, if so, the recommended amount of the award.<sup>30</sup> While all recommendations go through a multi-tiered, robust review process, certain claims, including all award recommendations, are reviewed by attorneys in the Division of Enforcement's Office of Chief Counsel and the SEC's Office of the General Counsel.<sup>31</sup> Staff in OCC and OGC are not assigned to OWB, but, as described above, review OWB recommendations for whistleblower award claims and provide OWB with advice and guidance.

After considering OWB's recommendation, the CRS issues a Preliminary Determination setting forth its assessment of whether a claim should be approved or denied and, if approved, setting forth the proposed award amount.<sup>32</sup> OWB sends each claimant the Preliminary Determination.<sup>33</sup> A claimant may seek reconsideration of a Preliminary Determination.<sup>34</sup> If this occurs, OWB analyzes the claimant's arguments and recommends a Proposed Final Determination to the CRS.<sup>35</sup>

After considering any requests for reconsideration and OWB's recommendation, the CRS submits a Proposed Final Determination to the Commission.<sup>36</sup> If no Commissioner requests a review within 30 days of receiving the Proposed Final Determination, it becomes the Final Order of the SEC.<sup>37</sup> OWB provides each claimant with the Final Order.<sup>38</sup> A claimant may appeal a Final Order denying their claim within 30 days of issuance of the Final Order. The claimant may appeal to the U.S. Court of Appeals for the District of Columbia Circuit, or to the circuit court in which the claimant resides or has their principal place of business.<sup>39</sup>

### **Significant Growth in the SEC's Whistleblower Program**

Since its inception, the SEC's Whistleblower Program has experienced significant growth by all metrics, including whistleblower tips, Notices of Covered Actions, award claims and reconsideration requests, Final Orders, and whistleblower awards.

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<sup>30</sup> FY 2021 Annual Report.

<sup>31</sup> FY 2021 Annual Report.

<sup>32</sup> FY 2021 Annual Report.

<sup>33</sup> 17 C.F.R. § 240.21F-10(d).

<sup>34</sup> See 17 C.F.R. § 240.21F-10(e). If a claim is denied and no timely request for reconsideration is submitted, the Preliminary Determination automatically becomes the Final Order of the SEC.

17 C.F.R. § 240.21F-10(f).

<sup>35</sup> 17 C.F.R. § 240.21F-10(g).

<sup>36</sup> 17 C.F.R. § 240.21F-10(h).

<sup>37</sup> 17 C.F.R. § 240.21F-10(h).

<sup>38</sup> 17 C.F.R. § 240.21F-10(i).

<sup>39</sup> 17 C.F.R. § 240.21F-13.

### ***Whistleblower Tips Received***

In FY 2023, the SEC received a record high of 18,354 whistleblower tips, as compared to 12,322 in FY 2022 and 12,210 in FY 2021.<sup>40</sup> In FY 2023, the most common complaint categories reported by whistleblowers were Manipulation (24%), Offering Fraud (19%), Initial Coin Offerings and Crypto Asset Securities (14%), and Corporate Disclosures and Financials (10%).<sup>41</sup> OMI, which triages all TCRs, including whistleblower tips, processed more than 40,000 TCRs in FY 2023, a 13% increase over FY 2022.<sup>42</sup>

### ***Notices of Covered Actions Posted***

In FY 2023, OWB posted 201 Notices of Covered Actions on its webpage, an increase from 149 in FY 2022 and 148 in FY 2021. For a monthly breakdown of postings beginning in FY 2021, please see Figure 1 in the Appendix.

### ***Whistleblower Award Claims Submitted***

As the number of posted Notices of Covered Actions has increased over the years, so, too, has the number of award claims received by OWB. The agency received a record number of applications for awards in FY 2023.<sup>43</sup>

### ***Reconsideration Requests Received***

Claimant requests for reconsideration of a Preliminary Determination entail additional work on the part of OWB staff, who must analyze the claimant's arguments and recommend a Proposed Final Determination. These matters may also involve novel legal issues of first impression.

In FY 2023, OWB expended considerable resources to process reconsideration requests so that claimants could receive a Final Order from the Commission. All Final Orders, including those involving reconsideration requests, are posted publicly on the SEC's webpage.

### ***Final Orders Issued***

The SEC's Final Orders awarding or denying award claims are posted publicly on the SEC's webpage. Please see Figure 2 in the Appendix for the number of final orders issued by quarter from FY 2021 to date.

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<sup>40</sup> FY 2023 Annual Report.

<sup>41</sup> FY 2023 Annual Report.

<sup>42</sup> See <https://www.sec.gov/news/press-release/2023-234>.

<sup>43</sup> FY 2023 Annual Report.

### ***Whistleblower Awards Made to Claimants***

FY 2023 was a record-breaking year for the Program, with annual awards totaling nearly \$600 million – the highest annual total by dollar value in the Program’s history. These awards brought the Program’s total award activity since inception to more than \$1.9 billion in awards to 397 individual whistleblowers.

### **Implementation of the SEC Office of Inspector General Recommendations**

On December 19, 2022, the SEC’s Office of Inspector General (OIG) issued Audit Report No. 575: “SEC’s Whistleblower Program: Additional Actions Are Needed to Better Prepare for Future Program Growth, Increase Efficiencies, and Enhance Program Management.”<sup>44</sup> The OIG included eight recommendations intended to help further increase efficiencies in the SEC’s Whistleblower Program, better prepare the Program for anticipated future growth, reduce risk, and improve controls over Whistleblower Program data and communication with external parties.

In response, the Division of Enforcement concurred with all of the recommendations and described measures that OWB had taken and would take to update its policies and procedures, implement and enhance internal controls, and engage in technology development to manage and automate certain internal processes, alerts, and reporting. In January 2022, OWB implemented a new technology system to modernize, standardize, and automate the tracking and management of Program information, and OWB has since leveraged that system to streamline and better track key steps in the claims process and store certain required documents.<sup>45</sup> OWB’s management team has taken actions deemed sufficient by OIG to close all recommendations.<sup>46</sup>

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<sup>44</sup> SEC Office of the Inspector General, *SEC’s Whistleblower Program: Additional Actions Are Needed to Better Prepare for Future Program Growth, Increase Efficiencies, and Enhance Program Management*, Rep. No. 575, (Dec. 19, 2022) (“OIG Audit Report No. 575”), available at <https://www.sec.gov/files/secs-whistleblower-program-additional-actions-needed-report-no-575.pdf>.

<sup>45</sup> See Appendix III to OIG Audit Report No. 575.

<sup>46</sup> FY 2023 Agency Financial Report.



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Thank you again for your letter. Please do not hesitate to contact me at (202) 551-2100, or have a member of your staff contact Kevin Burris, Director of the Office of Legislative and Intergovernmental Affairs, at (202) 551-2010 if you have any additional questions or concerns.

Sincerely,

*N. Creola Kelly*

N. Creola Kelly  
Chief, Office of the Whistleblower

## APPENDIX

**Figure 1: Notices of Covered Actions Posted Since FY 2021 (Oct. 2020 – Apr. 2024)**

Calendar Year	Fiscal Year	Month	Notices Posted		
2020	FY 2021	Oct.	19		
		Nov.	18		
		Dec.	8		
2021		Jan.	14		
		Feb.	17		
		Mar.	9		
		Apr.	9		
		May	7		
		June	6		
		July	14		
		Aug.	15		
		Sept.	12		
		Total FY 2021		148	
		2022	FY 2022	Oct.	10
				Nov.	10
Dec.	18				
Jan.	12				
Feb.	5				
Mar.	11				
Apr.	10				
May	13				
June	12				
July	19				
Aug.	13				
Sept.	16				
Total FY 2022		149			

Calendar Year	Fiscal Year	Month	Notices Posted
2022	FY 2023	Oct.	26
		Nov.	18
		Dec.	8
2023		Jan.	7
		Feb.	16
		Mar.	13
		Apr.	19
		May	9
		June	25
		July	13
		Aug.	16
		Sept.	31
2024		Total FY 2023	
	FY 2024	Oct.	20
		Nov.	25
		Dec.	5
		Jan.	6
		Feb.	17
		Mar.	21
		Apr.	5
		May	
		June	
		July	
		Aug.	
		Sept.	

**Figure 2: Final Orders Issued Since FY 2021 (Oct. 2020 – Apr. 2024)**

Fiscal Year	Fiscal Quarter	Final Order Counts		
		Award	Denial	Total
2021	1	22	46	68
	2	23	33	56
	3	36	64	100
	4	33	58	91
	<b>Total FY 2021</b>	<b>114</b>	<b>201</b>	<b>315</b>
2022	1	30	52	82
	2	27	12	39
	3	18	44	62
	4	28	43	71
	<b>Total FY 2022</b>	<b>103</b>	<b>151</b>	<b>254</b>
2023	1	20	42	62
	2	25	43	68
	3	12	31	43
	4	11	30	41
	<b>Total FY 2023</b>	<b>68</b>	<b>146</b>	<b>214</b>
2024	1	12	26	38
	2	3	13	19
	3 (ongoing)	5	9	14
	<b>Total FY 2024</b>	<b>20</b>	<b>51</b>	<b>71</b>
<b>Total Final Orders Oct. 2020 - Apr. 2024</b>		<b>305</b>	<b>549</b>	<b>854</b>